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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,967	04/23/2001	Shinsaku Fujimori	Furuya Case 1388	7973
7590 12/01/2004			EXAMINER	
Flynn Thiel Boutell & Tanis 2026 Rambling Road Kalamazoo, MI 49008-1699			GREEN, ANTHONY J	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/786,967

Applicant(s)

FUJIMORI ET AL.

Examiner

Anthony J. Green

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 1-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/10/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Throughout the specification, including the abstract, applicant recites the component "oxycarboxylic acid" which appears to be incorrect as applicant lists citric acid and gluconic acid as examples of this component. Citric acid and gluconic acid are examples of "hydroxycarboxylic acids" not "oxycarboxylic acids". It appears that this is an error resulting from the translation of the foreign document. Note that the abstract of the PCT recites "hydroxycarboxylic acid" and not "oxycarboxylic acid". Accordingly applicant needs to correct this error which appears throughout the entire specification and the abstract. The error also appears in the claims and a separate objection to the claims appears below. Also on pages 8, 10 and possibly elsewhere applicant lists "magnesium sulfate" as an example of the gypsum component. This too appears to be incorrect as gypsum is "calcium sulfate" not "magnesium sulfate". Applicant needs to correct this error wherever it appears. Also on page 8 applicant needs to remove the reference to claim 1. Appropriate correction is required.

### ***Claim Objections***

2. Claims 1-7 are objected to because of the following informalities: As stated in the objection to the specification, it appears that the component "oxycarboxylic acid" should be recited as "hydroxycarboxylic acid". See the objection to the specification for complete details. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is confusing as written. It is unclear as to what is meant by the phrase "comprising 100 parts by weight of magnesium oxide comprising 5 to 25% by weight of at least any one of silicic acid, alumina and iron oxide". Is applicant trying to say that a magnesium oxide containing component is utilized that contains silicic acid, alumina and/or iron oxide or what or that these components are separately added components? Clarification is requested.

In claim 2 it is unclear as to what is meant by the phrases "solid-liquid" and "produced by fusing part of a composition having the same chemical composition as the cement composition as defined in claim 1". What exactly is applicant trying to say? Why does this claim recite "magnesium silicate" whereas claim 1 recites "magnesium oxide? Are they supposed to be different components or what? Clarification is requested. The phrases "the fused component" and "the same chemical composition" lack proper antecedent basis.

In claim 3 it is unclear as to what is meant by the phrases "solid-liquid" and "produced by fusing part of a composition having the same chemical composition as the

cement composition as defined in claim 1". What exactly is applicant trying to say? Why does this claim recite "magnesium aluminate" whereas claim 1 recites "magnesium oxide? Are they supposed to be different components or what? Clarification is requested. The phrases "the fused component" and "the same chemical composition" lack proper antecedent basis.

In claims 4-7 it is unclear as to what is meant by "a soil stabilizer being the cement composition as defined in claim 1". Is applicant trying to say that the cement composition of claim 1 is a soil stabilizer or what? Clarification is requested.

In claim 7 the phrase "high polymeric coagulant" lacks proper antecedent basis as "high" is a relative term.

#### ***Allowable Subject Matter***

5. Claims 1-7 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and provided that all claim objections and specification objections are overcome.
6. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, which is the most pertinent art found, fails to teach and/or fairly suggest the instant invention.

#### ***Information Disclosure Statement***

7. The references have been considered however they are not seen to teach and/or fairly suggest the instant invention.

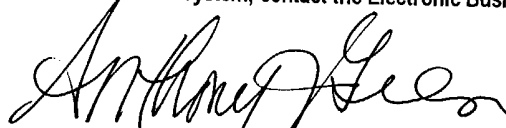
***References Cited By The Examiner***

8. The references are cited as showing the general state of the art and as such, they are not seen to teach or fairly suggest the instant invention. A complete copy of JP 63-256557 including the abstract is listed by the examiner as the copy received from the International Bureau lacks a translation of the abstract.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anthony J. Green  
Primary Examiner  
Art Unit 1755

ajg  
November 29, 2004